

**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2157
Docket No.: 1405.1034**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Satoshi OKUYAMA, et al.

Serial No. 09/772,000

Group Art Unit: 2157

Confirmation No. 8470

Filed: January 30, 2001

Examiner: Avi M. Gold

For: TEXT MESSAGING SYSTEM AND METHOD

**LETTER TO THE EXAMINER AND REQUEST
FOR WITHDRAWAL OF FINAL STATUS AS PREMATURE**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: **BOX AF**

Sir:

Applicants respectfully submit that the current Office Action mailed May 21, 2007 is incomplete since the Examiner has not responded to all of Applicants' arguments traversing the rejections from the previous Office Action mailed November 16, 2006 that were presented in the previous Amendment filed February 16, 2007 ("previous Amendment"). As set forth in MPEP §707.07(f) entitled Answer All Material Traversed:

an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

In the previous Amendment, Applicants traversed the rejections of claims 1-13, 15, 18, and 20-24 under 35 U.S.C. §103(a) as being unpatentable over Namekawa (U.S.P. 6,237,027) in view of Trompower et al. (U.S.P. 6,128,512) arguing, in part, that features recited by each of the independent claims are not taught by the cited art even in an *arguendo* combination of Namekawa with Trompower since Trompower teaches a limitation of "transmission parameters" that are dynamically modified to parameters such as chipping rate and that such modification is limited to a teaching of a modification based on distance between the transmitter and receiver

and noise conditions.

Further, Applicants argued that Trompower teaches a modification is performed while performing an adjustment and the wireless system only performs such adjustment between a particular mobile terminal and a base station. That is, one of understanding in the art, would not have modified Namekawa using the limited methodology of Trompowe to teach a dynamic determining of, for example, a "message destination."

In the current Office Action, the Examiner repeats his assertions in support of the rejection and in an attempt to establish *prima facie* obviousness but does not completely address the Applicants' argument. As set forth in MPEP § 706.07(d):

(l)f, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

Accordingly, Applicants respectfully request that the finality of the current Office Action be withdrawn and another action issued including a complete response and with the due date accordingly reset.

If there are any additional fees associated with filing of this Letter, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: September 20, 2007

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